

COPY in 98 K

500-157
opinion

1957

July 12

NEW HAMPSHIRE LAW LIBRARY

OCT 01 1998

CONCORD, N.H.

Mr. Donald Knowlton, Commissioner
Insurance Department
State House Annex
Concord, New Hampshire

Dear Mr. Knowlton:

This is in response to your request of July 3, relative to an interpretation of RSA 407:10. You specifically request what is meant by the term "begin the adjustment" as it appears in that section.

A thorough search of the law in this State, as well as from secondary authority, has failed to produce a decision in point. In U.S. v. O'Sullivan, 27 Fed. Cases 380 and 381, it is stated that: "Begin is to do the first act, to enter upon, to take the first step, the initial step." In Pa. Fire Insurance Company v. Draper, 187 Ala. 103, it is stated that the adjustment of a loss under a fire insurance policy is the settling and ascertaining of the amount of the indemnity which the insured, after making all proper allowances, is entitled to receive. It is further said that the term "examination" and "adjustment" are not convertible terms.

The statutory history of RSA 407:10 is of some assistance. Prior to 1927, section 10 of the statute required companies to adjust the loss within fifteen days but in that year the section was amended to its present form which requires the companies to begin the adjustment of the loss within the fifteen day period.

The only New Hampshire case that we are able to find which remotely touches on the subject which, in this case, was in existence prior to the 1927 change in the statute is: "The history of state legislation is one of constant effort to provide for the speedy adjustment of payment of losses, to take away technical and inequitable defenses. The statutes are to be so construed as to give effect to this provision." See Franklin v. New

C O P Y

Mr. Donald Knowlton, Commissioner

-2-

Hampshire Fire Insurance Co., 70 N.H. 251.

Since there appears to be no law on the subject of what constitutes "begin the adjustment", it therefore appears to be a question of fact within the discretion of the Commissioner in any given case.

Sincerely yours,

William J. Deachman
Assistant Attorney General

WJD/lk